



Montoya, Darlene <dmontoya@nmag.gov>

Fwd: Use Of Force Documents

2 messages

Nick Lamendola <policechief@villageofquesta.org>
To: Darlene Montoya <dmontoya@nmag.gov>

Thu, Jan 19, 2017 at 1:43 PM

Sent from my Verizon Wireless 4G LTE smartphone

— Original message —

From: sara trujillo <sartru@hotmail.com>
Date: 01/19/2017 1:39 PM (GMT-07:00)
To: Nick Lamendola <policechief@villageofquesta.org>
Subject: Use Of Force Documents

Chief here is the use of force file if you want to send to them. It does not let me send it through the Village email.

*Sara F. Trujillo
Questa Police Department
Office Manager*

 **2-05 Use of Force .doc**
54K

Montoya, Darlene <dmontoya@nmag.gov>
To: Nick Lamendola <policechief@villageofquesta.org>

Thu, Jan 19, 2017 at 1:45 PM

Thank you so much for the quick response Chief Lamendola. Be safe.
[Quoted text hidden]

—
Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](tel:(505)490-4854)

QUESTA POLICE DEPARTMENT GENERAL ORDERS

Subject : USE OF FORCE	Effective Date January 1, 2002	Amended Date	Number 2-5
Reference : Standards: 1.3, 41.2 IACP NMSA: 30-7-1.A.5, 30-7-3			No. Pages 9

I. POLICY

Officers are confronted daily with situations requiring the use of force to effect an arrest or ensure public safety. The degree of force used depends on what the officer perceives as reasonable and necessary under the circumstances at the time he or she decides to use force. Except for deadly force, the application of any degree of force is justified only when the officer reasonably believes that it is necessary:

- A. To prevent the escape from custody, make an arrest or an investigative detention of a person the officer believes has committed a crime.
- B. To defend himself or herself or another from what the officer believes is the use of force while trying to arrest another, prevent the suspect's escape, or otherwise lawfully take the person into custody.
- C. To disperse persons participating in an unlawful assembly.

Facts or circumstances unknown to the officer shall not be considered in later determining whether the force was justified. The department expects officers to observe the following two guidelines in all applications of force:

- D. Employ the minimum force reasonably necessary to accomplish a legal purpose.
- E. Officers may resort to more severe methods of force to overcome either increasing resistance or an increasingly dangerous threat to public safety.

The escalation in the use of force typically follows a pattern: verbal control, compliance techniques (control holds), chemical weapons, defensive tactics (including impact weapons such as the ASP), and finally deadly force. Officers must understand how to recognize increasing or decreasing levels of threat and respond appropriately.

When applying deadly force, the officer's objective shall be to stop or incapacitate the suspect. The objective of the use of any force is to overcome the suspect's resistance to an officer's lawful purpose: officers shall avoid unnecessary or excessive applications of force.

Officers shall not unreasonably or unnecessarily endanger themselves or the public when applying this policy.

2-5.1

II. PURPOSE

To establish guidelines governing the use of force and its limitations, and to describe prohibited activities.

III. DEFINITIONS

- A. Deadly force

1. The firing of a firearm, even though no intent exists to kill or inflict bodily harm.
2. Any force applied in any manner by any means that could reasonably be expected to cause death or serious physical injury.
 - a. "Serious physical injury" means bodily injury which creates a substantial risk of death or which is likely to cause serious permanent disfigurement or loss, or extended impairment of the function of any body member or organ.

B. Non-deadly force

Force employed which is neither likely nor intended to cause death or serious physical injury.

C. Firearms

Any weapon from which a projectile is forcibly ejected by an explosive.

D. Reasonable belief

When facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think reasonably in a similar way under similar circumstances.

E. Serious physical injury

A physical injury, which creates a substantial, risk of death, or which causes death or serious and protracted disfigurement, or impairment of the function of any bodily organ or limb.

F. Excessive force

Force is excessive when its application is inappropriate to the circumstances, resulting in serious physical injury or death to a suspect. In determining whether force has been excessively applied, the primary concern is whether the on-scene officer reasonably believes that its application was necessary and appropriate. Based on the reasonableness standard, excessive force may be determined based on:

1. The severity of the crime.
2. The nature and extent of the threat posed by the suspect.
3. The degree to which the suspect resists arrest or detention.
4. Any attempts by the suspect to evade arrest by flight or fight.

In evaluating the reasonable application of force, officers must consider their own age, size, strength, skill level with department weapons, state of health, and the number of officers opposing the number of suspects.

IV. PROCEDURES - Non-deadly force

The department trains officers in the use-of-force continuum which emphasizes the recognition of and response to increasing levels of threat. Most instances in which force is applied are non-deadly. Officers shall assess the incident to determine which technique will best bring the situation under control. **Following the application of any method of force, once the situation is contained, officers shall provide or arrange to provide medical help as necessary.** The following discussion reinforces key principles from training.

A. Verbal control

Verbal control refers to the manner in which the officer speaks to a person, which alone can manage a situation. Verbal control includes advice, persuasion, admonitions, or orders. The volume and tone of the officer's speech may also contribute to control without having to resort to another method of force. The department urges the use of verbal commands without the use of profanity or disrespectful or argumentative behavior.

B. Compliance techniques

At times, uncooperative people who refuse to be taken into custody may only respond to a combination of strength, leverage, take-downs, control holds, or come-along with sufficient force to make the lawful arrest without aggravating a suspect's combativeness. The object of this level of force is to gain control and enforce the suspect's compliance while minimizing the risk of injury to officers, bystanders, or the person being placed in custody. Where lesser levels of force appear ineffective, officers may employ hands, fists, feet, and knees, and so on in striking an adversary, according to methods sanctioned through training.

C. Chemical agents

The use of chemical agents is restricted to situations where higher levels of force are unnecessary and lesser levels are inappropriate or ineffective. The only chemical weapon authorized for patrol personnel is the oleoresin capsicum (OC) or "pepper spray," "pepper balls" as issued by the department. Chemical agents shall be used only to the extent necessary to overcome the resistance of the suspect within training standards. Specialized chemical agents such as light/sound devices, distraction devices, or tear gas shall be used only by personnel trained in their application, and then only under direct orders of the on-scene supervisor upon consultation with the chief of police. (See GO 2-6)

2-5.3

D. Electronic Restraint Devices

The electronic restraint device (ERD) is authorized to be used by trained department individuals. The primary purpose for employing the ERD is to save human lives. The ERD is viewed as "high" on the continuum of non-lethal force and is authorized as an alternative to employing deadly force in situations where time and circumstances exist for ERD use. It is not intended to be used as general substitute for other non-lethal force options. (See GO 2-7)

E. Defensive tactics

The department authorizes the carrying and use of the ASP as the only striking weapon for officers: all other forms of striking or punching weapons are prohibited for carrying or use, including but not limited to saps, blackjack, slapjacks, nunchaku and similar sticks, and brass knuckles. Officers who carry the ASP shall be trained and certified in its use. The weapon may be used in quelling confrontations involving physical violence where higher levels of force are unnecessary or inappropriate, and lesser levels are inappropriate or ineffective.

1. The ASP shall not be used to strike handcuffed individuals or to threaten or intimidate people.
2. The ASP is mainly useful as an instrument to manage various control holds, not as a club or prod. Officers shall not raise the ASP above the head to strike a blow to a person's head. Officers shall not strike a person's head with any non-deadly impact weapon.

V. **DEADLY FORCE**

A. Firearms - general

1. Firearms may be used:
 - a. In defense of the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily harm.
 - b. To prevent the escape of a fleeing felon whom the officer has probable cause to believe will pose a significant, immediate threat to human life should escape occur. No other reasonable means of capture must be available to the officer in this case without endangering the officer's life or the life of another person.
 - (1) In evaluating a "significant threat," the officer must reasonably believe that the person has either used deadly force in the commission of a crime or may inflict death or serious harm to the officer or others if apprehension is delayed.
 - (2) Where feasible, officers shall identify themselves and give a warning before shooting.

2-5.4

- c. To kill seriously injured or dangerous animals when no other disposition is reasonably practical. A supervisor's approval should be sought when possible.
 - d. In routine firearm training or practice at an approved range.
2. Before using a firearm under circumstances 1.a and 1.b above, officers shall identify themselves and state their intent to shoot, where feasible.

B. Shotgun/ Rifles (M15-16)

1. The shotgun/rifle shall only be used when a possibility exists that the officer will be dealing with an armed suspect, e.g., armed robbery in progress, searching for armed suspects, answering calls when the complainant has indicated that a person is armed.
2. The chief of police may approve the use of shotguns/rifles on raids and stakeouts when he believes that a threat to human life exists.
3. Shotguns/rifles shall be carried in patrol units when not in preparation for use. When the shotgun/rifle is not encased with any rounds, it shall be carried with the safety on at all times until there is an immediate need to fire the weapon.
4. Shotguns/rifles shall be secured and locked in the patrol vehicle with the chamber empty until the officer removes the shotgun/rifle from the vehicle.
5. Shotguns/rifles shall be removed from vehicles before leaving them at any garage or service department.
6. Before beginning a tour of duty or immediately thereafter officers shall inspect the shotgun/rifle.
7. During regular firearm qualification, each officer authorized to use a shotgun/rifle shall be required to demonstrate proficiency with it.
8. The range officer or armorer shall develop a shotgun/rifle maintenance schedule. All officers assigned shotguns/rifles shall clean and inspect according to the schedule.
9. The general rules for the use of firearms above apply to shotguns/rifles.

VI. LIMITATIONS ON FORCE

The following acts associated with the use of force are prohibited.

- A. Firing into crowds.
- B. Firing a warning shot.

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- C. Firing from a moving vehicle. Firing at a moving vehicle is prohibited **except** where the officer reasonably believes that:
 - 1. An occupant of the other vehicle is using, or threatening to use, deadly force by a means other than the vehicle; OR
 - 2. A vehicle is operated in a manner deliberately intended to strike an officer or a citizen and all other reasonable means of defense have been exhausted (or are not present), including moving out of the path of the vehicle, and the safety of innocent persons would not be unduly jeopardized by the officer's action.
 - 3. Officers shall not fire at or in the direction of a vehicle that no longer poses an immediate threat.
- D. Firing into a building or through doors when the person fired at is not clearly visible unless officers are being fired upon from such building or through such door.
- E. Firing at a suspect when lesser force could be used and the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force, or when there is any substantial danger to innocent bystanders. (*When in doubt, don't shoot.*)
- F. Application of choke hold or carotid control holds, except when the officer reasonably believes such holds are the only means of protecting him/herself or another person from an imminent threat of serious physical injury or death.
- G. Use of Streamlites or Kel-lites or other flashlights as batons. An officer may use a flashlight or other object designed for a use other than as a weapon **only** to defend him- or herself or another from imminent serious physical injury or death and then **only** if departmentally sanctioned methods are not available or are impractical. The use of a flashlight under such circumstances shall be deemed an application of deadly force.
- H. The carrying or use of blackjacks or slapjacks.
- I. Use of deadly force against unarmed, non-dangerous fleeing felons, fleeing misdemeanants, or traffic offenders.
- J. Any use of force not reasonably necessary in the light of the circumstances confronting the officer.
- K. Any forcible enforcement action when off duty except in circumstances which seriously threaten life, valuable property, or public order.

VII. WEAPONS

- A. Duty weapon

While on duty, an officer shall carry a department issued or approved weapon only. A .40 cal. semiautomatic pistol. The department shall issue ammunition for department issue weapons.

2-5.6

1. Any officer who wishes to carry a personally owned weapon must request permission, in writing, from the chief of police. Weapons shall be inspected and approved by the range instructor/armorer. In addition, the weapon shall fire department-issued ammunition and the officer shall qualify with the weapon as well as with department-issued weapons. Officers shall buy only department authorized ammunition for use with their personally owned weapons used off duty.
2. The chief or his designee (armorer) shall maintain a record of all weapons used by officers either on or off duty. The record lists weapon descriptions, ammunition type issued, date of issue, and information pertaining to qualifications. Officers shall annually review the records to ensure that they are up to date.

B. Off-duty weapons

Officers are encouraged, but not required, to carry a handgun when off duty. An officer who elects not to carry a handgun while off duty shall not be subject to disciplinary action if an occasion should arise in which he or she could have taken police action if he were armed. The officer shall become a good witness to the incident.

1. **Exception:** While operating a department vehicle, off-duty officers shall be armed with an approved weapon.
2. Officers who carry off-duty weapons must understand that in some social situations (e.g., sports) the carrying of a firearm is inappropriate.
3. Officers who have consumed alcoholic beverages shall **not** carry an off-duty weapon under any circumstances. While off-duty officers shall abide by NMSA 30-7-3, not to carry a firearm in licensed liquor establishments.
4. All officers shall submit off-duty weapons to the range instructor for inspection and firing before carrying them.
5. Off-duty officers who carry firearms while in plain clothes shall **not** wear them in any way that allows the public to see them.
6. Officers who obtain concealed weapons permit per New Mexico State Statutes §30-7-2.A.5 shall comply with the requirements of this general order.
7. Although the department requires officers to carry departmental identification at all times, any time that officers carry a firearm off duty they shall carry their departmental identification and badge.

2-5.7

C. Qualification

No officer shall carry or use any firearm, chemical agent, or ASP unless he or she has received training and demonstrated proficiency in its use.

1. Officers who fail to pass the qualification shall be relieved of their police powers and immediately reassigned to non-enforcement duties.

2. Officers who have taken extensive leave or suffered an illness or injury that could affect the use of firearms or non-deadly weapons shall requalify before returning to enforcement duties.

VIII. REPORTING USE OF FORCE

- A. Officers shall document **any** application of force except for those arising in training or departmental demonstrations.
- B. If officers have employed chemical weapons or any higher degree of force, they shall first render medical aid and then:
 1. Immediately notify the on-duty supervisor or the chief of police (if the on-duty supervisor is unavailable) of any use of physical force.
 2. Submit a report to the chief of police before the end of the officer's tour of duty describing the incident and any medical aid rendered, and shall substantiate the force used.

IX. DEPARTMENTAL RESPONSE

A. Assignment

Pending administrative review, any officer who has taken the life of or seriously injured another person shall be removed from line-duty assignment. This action protects both the officer's and the community's interests until the situation is resolved.

B. Review

1. The chief of police shall review all reported uses of force to determine whether:
 - a. Departmental orders were violated.
 - b. Relevant departmental policy was clearly understandable and effective to cover the situation.
 - c. Departmental training was adequate.
2. The chief of police may convene a board of inquiry to examine an incident in which force was applied.
 - a. The board of inquiry will ascertain training and policy needs.
3. At least annually, the chief of police shall compile an analysis of use-of-force incidents to be made available to the public upon request.

C. Internal investigations

Internal investigations of serious applications of force shall be of two types conducted simultaneously: first, an administrative investigation to determine whether department standards were followed; second a criminal one to detect lawbreaking. A criminal investigation shall be discontinued whenever the department is satisfied that no misconduct occurred. RR 1-7 details the two types of investigations.

D. Psychological services

2-5.8

The chief of police will normally direct psychological follow-up of post-shooting trauma whenever deemed appropriate. During an internal investigation, the department shall do all within its power to avoid placement of a stigma on the officer who discharges a firearm in performance of duty. Following a shooting resulting in a death, the officer shall not return to duty until a psychological evaluation has been conducted, and the officer has received any necessary counseling.